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Attorneys for Construction Laborers Trust Funds for  
Southern California Administrative Company, LLC

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION

CONSTRUCTION LABORERS TRUST  
FUNDS FOR SOUTHERN  
CALIFORNIA ADMINISTRATIVE  
COMPANY, a Delaware limited liability  
company,

Plaintiff,

vs.

D T S ENTERPRISE, INC., a California  
corporation also known as and doing  
business as D T S CONCRETE; LESLIE  
DAIN SORG, an individual; SURETEC  
INSURANCE COMPANY, a Texas  
corporation; QUALITY DEVELOPMENT  
AND CONSTRUCTION, INC., a California  
corporation; DOE 1 THROUGH DOE 10,  
inclusive,

Defendants.

AND RELATED CROSS-ACTION

CASE NO.: 5:22-cv-00867-JGB-KK

~~[PROPOSED]~~  
ORDER GRANTING  
STIPULATED PROTECTIVE  
ORDER

[Fed. R. Civ. P. 5.2 and 26(c)]

Discovery Cut-Off:  
June 26, 2023

Pre-Trial Conference:  
October 30, 2023

Trial Date:  
November 14, 2023

[Hon. Kenly Kiya Kato]

[NOTE CHANGES MADE BY  
COURT]

1 WHEREFORE, Plaintiff, Construction Laborers Trust Funds for Southern  
2 California Administrative Company, LLC and Defendant D T S Enterprise, Inc., have  
3 stipulated in writing to protect certain personal and proprietary information from  
4 improper disclosure; and

5 WHEREFORE the aforementioned stipulation **as revised by the Court** is  
6 memorialized and attached hereto as Exhibit "A" (the "Stipulation"); and

7 GOOD CAUSE APPEARING, the Stipulation is hereby approved, and entered  
8 as an Order of the Court.

9  
10 IT IS SO ORDERED.

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13 DATED: May 2, 2023

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\_\_\_\_\_  
Hon. Kenly Kiya Kato  
UNITED STATES MAGISTRATE JUDGE

EXHIBIT A

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**NOTE CHANGES MADE  
BY COURT**

## PURPOSE AND LIMITATIONS

Pursuant to Local Rule 7-3, counsel for Plaintiff Construction Laborers Trust Funds (CLTF) and Defendant D T S Enterprise, Inc. (DTS), as well as all other defendants, have met and conferred regarding Plaintiff's proposed motion for, *inter alia*, an Interlocutory Order Compelling an Audit, as in Central States, SE. & SW. Areas Pension Fund v. Central Transp., Inc. (Central States), 472 U.S. 559, 105 S. Ct. 2833, 86 L. Ed. 2d 447 (1985). While the Parties did not (yet) arrive at a resolution to avoid the motion, they did agree to enter into this Stipulation for a Protective Order to cover the audit of DTS's records which have been, or may be ordered by the Court, for voluntary compliance with the audit sought, as well as all discovery and disclosures in this case. The Supreme Court has approved of similar protective measures in Central States, 472 U.S. 559, 564 n. 5 and 559 n. 23. The Sample Stipulated Protective Order of this Court does not address the unique needs of this type of audit, as described below. Rather, this Stipulated Protective Order is based on the one used in Constr. Laborers Tr. Funds for S. California Admin. Co. v. Ground Serv. Tech., Inc. (GST), No. CV 13-414 DMG (JEMX), 2014 WL 12561599, at \*8 (C.D. Cal. Feb. 14, 2014) (noting that, if the employer "identifies legitimate reasons justifying limits on Plaintiff's audit, the Court will consider them in the event the parties cannot reach a mutual agreement as to items which should be subject to a protective order approved by the Magistrate Judge.")

## GOOD CAUSE STATEMENT

1. Plaintiff, CLTF is a fiduciary and agent for collection to certain employee benefit plans ("TRUST FUNDS") governed by the Employee Retirement Income Security Act (ERISA), 29 U.S.C. §§ 1001 *et. seq.*

2. The Court issued its Order Granting Plaintiff's Motion to Compel

1 Defendant D T S Enterprise Inc. to produce documents in response to Plaintiff's First  
2 Set of Requests for Production of Documents Nos. 1-18 [docket no. 46] requiring  
3 Defendant, D T S ENTERPRISE INC. ("DTS") to allow access to its records  
4 regarding its work, as more fully stated in that Order. In its Second Claim for Relief,  
5 Plaintiff seeks a full audit of DTS' records. If not provided voluntarily, Plaintiff may  
6 seek partial summary judgment as to that claim, with an Interlocutory Order  
7 Compelling Audit, as in GST, *supra*.

8         3. DTS is concerned about disclosure, in such audit, whether voluntary or  
9 compelled, of the personal information of employees (past and present), including  
10 names, addresses, social security numbers, phone numbers, and or any other  
11 information as to those employees who are not beneficiaries or participants of the  
12 TRUST FUNDS which is protected by law from public disclosure or unauthorized  
13 used ("PERSONAL INFORMATION"). The handling of PERSONAL  
14 INFORMATION, shall be governed by this Stipulated Protective Order.

15         4. It is recognized that Plaintiff has certain obligations under ERISA and  
16 regulations thereunder to maintain the privacy of PERSONAL INFORMATION. At  
17 the same time, such information may be relevant to this lawsuit, or included in  
18 relevant material.

19         5. DTS contends, among other things, that certain documents requested by  
20 TRUST FUNDS include DTS's personal private financial information and that  
21 information should be protected from disclosure to third parties and/or if deemed  
22 necessary for submission to the Court as evidence should be protected from public  
23 disclosure ("PROPRIETARY INFORMATION"). Without necessarily agreeing with  
24 this characterization, Plaintiff agrees to observe the following safeguards as to  
25 information designated as PROPRIETARY INFORMATION.

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STIPULATED PROTECTIVE ORDER

6. The following rules will apply to both PERSONAL or PROPRIETARY INFORMATION:

- a. PERSONAL or PROPRIETARY INFORMATION which is included within a voluntary audit, disclosures or discovery, shall not be withheld or redacted from the party to whom the disclosure is made or requesting discovery. However, the party producing such disclosures or discovery shall notify the party receiving them, that PERSONAL or PROPRIETARY INFORMATION is included, and this Protective Order applies. Such notice shall be in writing, and shall specify with particularity the portions of the records so designated.
- b. Any document containing PERSONAL or PROPRIETARY INFORMATION shall be subject to Rule 5.2 of the Federal Rules of Civil Procedure, Local Rule 5.2, and by the orders of the trial judge. **Any use of protected material at trial or other court hearings or proceedings shall be governed by the orders of the trial judge.** In accordance with the aforementioned, such documents shall not be filed with this, or any other Court, or be produced as exhibits at trial, unless either:
  - i. Such documents are redacted to remove the PERSONAL or PROPRIETARY INFORMATION from view; OR
  - ii. Such documents are filed under seal with the Court in strict compliance with Local Rule 79-5; ~~OR~~
  - iii. ~~Such documents are introduced at trial subject to an order that any jury or other finder of fact (other than the Court or Court personnel) is instructed by the Court, and agrees, to maintain the privacy of the~~

~~PERSONAL or PROPRIETARY INFORMATION.~~

- c. If a party's request to file PERSONAL or PROPRIETARY INFORMATION under seal is denied by the Court, then the Receiving Party may file the information in the public record unless otherwise instructed by the Court.

7. The following rules will apply to the handling of PERSONAL INFORMATION:

- a. It is recognized that the TRUST FUNDS have existing legal obligations to preserve the privacy of PERSONAL INFORMATION. The TRUST FUNDS acknowledge that this shall apply to all PERSONAL INFORMATION, regardless of whether it is ultimately determined that the individuals involved are participants or beneficiaries of any of the TRUST FUNDS. CLTF and the TRUST FUNDS shall use the PERSONAL INFORMATION solely for the purposes of this lawsuit, and to fulfill their duties and obligations in administering the TRUST FUNDS, as well as any obligations to report or disclose information to government agencies, or other disclosures required by law.
- b. After the final conclusion of this lawsuit (including any appeals), any PERSONAL INFORMATION relating to individuals who it is finally determined are not participants or beneficiaries of any of the TRUST FUNDS, shall be either destroyed or returned to the source of those documents.

8. The following rules will apply to the handling of PROPRIETARY INFORMATION:

- a. Any PROPRIETARY INFORMATION produced or revealed in this lawsuit, will not be disclosed to anyone other than the parties,



1           their counsel and staff, or any expert witness, witness, or other  
2           third party who has agreed to be bound by this Protective Order,  
3           except as required by government agencies, or by court order.  
4           CLTF will not cause the documents to be distributed to any third  
5           parties who are not part of or named in this lawsuit, except to  
6           fulfill their duties and obligations in administering the TRUST  
7           FUNDS, as well as any obligations to report or disclose  
8           information to government agencies, or other disclosures required  
9           by law.

10           b.    Upon completion of this lawsuit, including any appeals or other  
11           litigation arising therefrom, any party or third party to whom the  
12           disclosure of PROPRIETARY INFORMATION has been made  
13           shall either destroy such PERSONAL or PROPRIETARY  
14           INFORMATION or return it to the party or third party who  
15           disclosed it.

16           9.    All parties to this action reserve the right to dispute the characterization  
17           (or failure to characterize) any documents as PERSONAL or PROPRIETARY  
18           INFORMATION. In the event that there is a dispute over such characterization, the  
19           parties involved must strictly comply with Local Rules 37-1 and 37-2. In particular,  
20           parties shall immediately meet and confer and, if unable to settle their differences, will  
21           formulate a joint written stipulation and follow the procedures for resolving discovery  
22           disputes before the Magistrate, who is authorized to rule on such disputes.

23           10.   This Protective Order is binding upon each of the parties to this action,  
24           counsel for each party to this action, and the respective staff, administrators,  
25           fiduciaries and co-fiduciaries, officers and managing agents of each. In the event that  
26           an expert witness, witness, or other third party needs to view or produce PERSONAL  
27           or PROPRIETARY INFORMATION for purposes of this lawsuit, such other person  
28           shall be given a copy of this Protective Order, and asked to agree, in writing to be

1 bound by its terms. Not until such expert witness, witness or other third party so  
2 agrees, will they be required or allowed access to such PERSONAL or  
3 PROPRIETARY INFORMATION.

4 11. The rules in this Protective Order are not binding on the Court and court  
5 personnel, as they are subject only to the court's internal procedures regarding the  
6 handing of material filed or lodged, including material filed or lodged under seal.

7 12. The protective order shall be without prejudice to the right of any party to  
8 seek a modification thereof. Any party seeking to modify or amend the protective  
9 order must strictly comply with Local Rules 37-1 and 37-2. The order shall survive  
10 the final termination of this action with regard to any documents produced pursuant to  
11 this Protective Order.

12 13. Nothing in this Protective Order shall be constructed as an authorization  
13 and/or encouragement for a party to disobey a lawful subpoena or court order issued  
14 in a separate action.

15  
16 SO STIPULATED:

17  
18 DATED: May 2, 2023

ALEXANDER B. CVITAN,  
J. DAVID SACKMAN  
MARSHA M. HAMASAKI, and  
PETER A. HUTCHINSON  
REICH, ADELL & CVITAN  
A Professional Law Corporation

21  
22 By: /s/ J. David Sackman  
J. DAVID SACKMAN  
Attorneys for Plaintiff

23  
24 Pursuant to L.R. 5-4.3.4(a)(2)(i), the above filer attests that all other signatories listed,  
25 and on whose behalf the filing is submitted, concur in the filing's content and have  
26 authorized the filing.

27 *(Signatures continued on next page)*  
28

1 (Signatures, continued)

2 DATED: May 2, 2023

JOSEPH C. MCGOWAN, JR.  
RUBY ZAPIEN  
ROGERS JOSEPH O'DONNELL

By: /s/ Joseph C. McGowan, Jr.  
JOSEPH C. MCGOWAN, JR.  
Attorneys for Defendants D T S Enterprise, Inc.,  
aka D T S Concrete; and Leslie Dain Sorg

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CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION

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[Hon. Kenly Kiya Kato]

1 WHEREFORE, Plaintiff, Construction Laborers Trust Funds for Southern  
2 California Administrative Company, LLC and Defendant D T S Enterprise, Inc., have  
3 stipulated in writing to protect certain personal and proprietary information from  
4 improper disclosure; and

5 WHEREFORE the aforementioned stipulation is memorialized and attached  
6 hereto as Exhibit "A" (the "Stipulation"); and

7 GOOD CAUSE APPEARING, the Stipulation is hereby approved, and entered  
8 as an Order of the Court.

9  
10 IT IS SO ORDERED.

11  
12  
13 DATED:

14 Hon. Kenly Kiya Kato  
15 UNITED STATES MAGISTRATE JUDGE  
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**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action; my business address is 330 North Brand Boulevard, Suite 250, Glendale, California 91203.

I served the foregoing document on **May 2, 2023**, described as: **STIPULATED PROTECTIVE ORDER AND PROPOSED ORDER**, on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

Joseph McGowan  
Ruby Zapien  
**Rogers Joseph O'donnell**  
311 California Street, 10<sup>th</sup> Floor  
San Francisco, CA 94101

Attorneys for Defendants,  
D T S Enterprise, Inc. and  
Leslie Dain Sorg

Warren Nelson, Esq.  
**Fisher & Phillips LLP**  
2050 Main Street, Suite 1000  
Irvine, CA 92614

Attorneys for Defendant,  
Quality Development and Construction,  
Inc.

Robert C. Christenson, Esq.  
**Fisher & Phillips, LLP**  
1230 Peachtree Street NE, Suite 3300  
Atlanta, GA 30309

Attorneys for Defendant,  
Quality Development and Construction,  
Inc.

☒ **(BY MAIL):** As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☒ **(BY ELECTRONIC SERVICE):** I hereby certify that on **May 2, 2023**, I sent the above document listed by way of e-mail to the following:

Joseph McGowan Email: jmcgowan@roj.com

Attorneys for Defendants,  
D T S Enterprise, Inc. and  
Leslie Dain Sorg

Ruby Zapien E-mail: rzapien@rjo.com

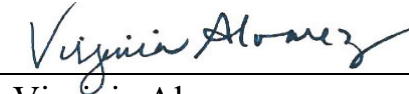
Christian J. Gasco  
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Attorney for Defendant and  
Cross-Complainant  
Suretec Insurance Co.

James C. Castle  
E-mail: jcastle@gascouhopkins.com

1 Executed on **May 2, 2023**, at Glendale, California.

2 ☒ (Federal Court) I declare under penalty of perjury under the laws of the United  
3 States of America that the foregoing is true and correct and that I am employed  
4 in the office of a member of the bar of this court at whose direction the service  
5 was made.

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7 Virginia Alvarez  
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